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PROJECT NO. 52786

ERCOT COMPLIANCE REPORTS OF	§	PUBLIC UTILITY COMMISSION
GENERATION RESOURCE WINTER	§	
READINESS PURSUANT TO 16 TAC	§	OF TEXAS
§ 25.55(C)(4)	§	

**NOTICE OF DISAGREEMENT WITH KCE TX 8 LLC'S
ASSERTION OF GOOD CAUSE**

The Staff (Commission Staff) of the Public Utility Commission of Texas (Commission) files this notice of disagreement with KCE TX 8 LLC (KCE 8)'s assertion of good cause for non-compliance with the Commission's weatherization rules submitted under 16 Texas Administrative Code (TAC) § 25.55(c)(6)(A). Commission Staff hereby provides this notice of disagreement as required under 16 TAC § 25.55(c)(6)(B).

I. BACKGROUND

KCE 8 is a power generation company (PGC) registered with the Commission under PGC registration number 20536. On December 1, 2021, KCE 8 submitted a winter weather readiness report (WWRR) for at least one generation resource to submitted to the Electric Reliability Council of Texas (ERCOT) in compliance with 16 TAC § 25.55(c)(2). The report included one or more assertion(s) of good cause for non-compliance with the Commission's weatherization requirements established under 16 TAC § 25.55(c)(1).

Under 16 TAC § 25.55(c)(6)(B), Commission Staff and ERCOT are required to expeditiously review assertions of good cause submitted under 16 TAC § 25.55(c)(6)(A) in order to determine whether good cause for non-compliance reasonably exists. To the extent Commission Staff disagrees with an assertion of good cause, Commission Staff is required to file a notification of its disagreement in this project.

II. DISAGREEMENT WITH ASSERTION OF GOOD CAUSE

Commission Staff and ERCOT have reviewed the WWRR submitted by KCE 8 to ERCOT on December 1, 2021. Commission Staff hereby notifies KCE 8 of disagreement with the following assertions of good cause:

- **Generation Resource WRSBES – BESS1:** In the WWRR for WRSBES – BESS1, KCE 8 asserted good cause for non-compliance with 16 TAC § 25.55(c)(1)(D), which requires a generation entity to provide training on winter weather preparations and operations to the relevant operational personnel for each generation resource. Specifically, KCE 8 asserted that the training requirement under 16 TAC § 25.55(c)(1)(D) is inapplicable to WRSBES – BESS1 because the resource is unmanned and is located within a weather-resistant facility equipped with heating, ventilation, and air conditioning (HVAC) technology. The WWRR further stated that KCE 8 “performs biannual testing once prior to the heating season and once prior to the cooling season in accordance with the manufacturer specification” and that “[KCE 8] monitors battery cell temperatures via remote monitoring on a daily basis and responds promptly to any detected anomalies.”

Commission Staff disagrees with this assertion of good cause for non-compliance because, while KCE 8 staff may not work onsite on a daily basis, KCE 8 staff should be trained and prepared to execute resource-specific and site-specific preparations in advance of an imminent winter storm. Moreover, remote monitoring of the resource’s status is not a substitute for advanced training and preparation for weather events.

III. NOTICE

As established under 16 TAC § 25.55(c)(6)(C), within seven days of receiving this notice,¹ KCE 8 must provide the Commission with proof of compliance with the above-described weatherization requirements or, alternatively, may preserve the disputed good cause assertions by submitting to the Commission a request for approval of a good cause exception. The request for approval must contain all information required under 16 TAC § 25.55(c)(6)(E).

Commission Staff has provided a copy of this notice to KCE 8 by e-mail to Mr. Daniel Fitzgerald, the authorized representative for KCE 8 listed in the Commission’s records, at regulatory@keycaptureenergy.com.

¹ Seven days from the date this notice was filed is December 24, 2021, which is an agency holiday. The next day the Commission is open for business is Wednesday, December 29, 2021. Therefore, under 16 Tex. Admin. Code (TAC) § 22.4(a), the deadline to respond to this notice is December 29, 2021.

IV. INVESTIGATION OPENED

KCE 8 is hereby notified that Commission Staff has opened an investigation into to KCE 8's compliance with 16 TAC § 25.55(c), concerning winter weather emergency preparedness, under investigation record number 2021120030.

Commission Staff notes that, under PURA § 15.023(b-1), the Commission is authorized to impose administrative penalties of up to \$1,000,000 per violation per day for violations of rules established under PURA § 35.0021. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. To the extent that KCE 8 fails to timely provide proof of compliance or file a request for approval of a good cause exception, KCE 8 will be in violation of 16 TAC § 25.55 and therefore eligible for the maximum administrative penalty allowed by law.

Dated: December 17, 2021

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS

**COMPLIANCE AND ENFORCEMENT
DIVISION**

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CERTIFICATE OF SERVICE

I certify that notice of filing of this document was provided to all parties of record via electronic mail on December 17, 2021 in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/Courtney Dean

Courtney N. Dean